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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,575	12/05/2003	Uwe Folgmann	Q78801	7353
23373 7590 09/05/2007 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037				
EXAMINER				
CLEMENT, MICHELLE RENEE				
ART UNIT		PAPER NUMBER		
3641				
MAIL DATE		DELIVERY MODE		
09/05/2007		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/727,575

**Applicant(s)**

FOLGMANN ET AL.

**Examiner**

Michelle (Shelley) Clement

**Art Unit**

3641

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20, 22-30 and 32-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20, 22-30, 32-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Applicant's Remarks***

In response to applicant's remarks concerning the 35 U.S.C. § 112, first paragraph rejections, it is noted that applicant's remarks do not overcome the deficiencies of the disclosure. In applicant's remarks dated 9/22/06, applicant stated that it is the ammunition itself that opens the cover, however there is no suggestion in the specification as filed how the ammunition itself might open the cover. In the remarks presently set forth applicant implies that the cover may be opened by the gas pressure built up by the ammunition; if this is the case then it is not the ammunition itself that opens the cover as required by the claims. It appears that applicant cannot even show how the claimed limitation of the cover arrangement is opened by the ammunition upon deployment. More importantly, applicant has not shown where in the specification, as filed, it is shown how this is accomplished. Applicant's remaining arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-20, 22-30 and 32-34 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is not clear to the examiner how the cover is opened by the ammunition upon deployment, merely restating the

exact language in both the claims and specification does not in itself necessarily enable one skilled in the art to make and/or use the invention. It is not clear if applicant means the ammunition opens the cover arrangement via another element or structure or if the ammunition itself hitting the cover opens the cover arrangement. If the later is the case it is not clear to the examiner how the cover arrangement is not destroyed in the process or how the trajectory of the ammunition is not displaced. It is not clear to the examiner how this is accomplished and the specification does not describe how this is accomplished in such a way as to enable one skilled in the art to make and/or use the invention. For the remainder of this action it will be assumed that applicant intends for the ammunition to indirectly open the cover arrangement via another element or structure upon deployment.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-20, 22-30 and 32-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Claim 1 cites a device for use with ammunition without positively reciting the device in combination with the ammunition, later the claim attempts to cite elements of the ammunition. It is not clear if applicant intends the device with the intended use of deploying ammunition or if applicant intends the device in combination with the ammunition. Clarification of the claim language is required.

#### ***Claim Objections***

5. Claims 14-16 are objected to because of the following informalities: Claim 14 is apparently missing words because the claim does not make sense as written "provided with a

connection facility for control with the aid of ignition means”, for control of what?. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-8, 13, 17, 18, 20, 22, 23, 27, and 29 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Wohlfarth (UK Patent 2,283,804). Wohlfarth discloses a device for deploying ammunition, wherein a recess in a body shell of a vehicle provided for ammunition deployment is covered by a cover arrangement (that fact that it is covered by a cover rather than being left as an open hole inherently reduces a radar signature caused by the recess) (Figure 2), and wherein the cover arrangement is opened when the ammunition is to be deployed (i.e. opened by the ammunition upon deployment) (Figure 3). Ammunition is deployed with a launcher (reference 3) located inside of the body shell of the vehicle. The launcher has at least one discharge tube. The launcher terminates flush with the body shell of the vehicle. The launcher is attached to the body shell (i.e. located at a distance of 0-20 from the body shell of the vehicle). The discharge tube is arranged inside of the body shell, so that loading of the discharge tube is possible from the inside. The discharge tube is accommodated in a launcher housing. The launcher housing is fixedly connected with the inside of the body shell. The launcher housing is provided with outlet means. A plurality of launchers are provided for deploying ammunition and a plurality of adapters are respectively provided between the launchers and the

body shell and forming a plurality of differing inclination between the launcher and the body shell to provide a range of angles of deployment of the ammunition in lateral pointing and elevation. The vehicle is a land vehicle (Figure 1). The cover arrangement covers the recess (preserving a camouflaged structure of the body shell (see above)). The cover arrangement includes at least one single camouflage hatch. The cover will inherently protect the device from splashes. The protective cover terminates flush with the body shell (Figure 2).

8. Claims 1-3, 6-16, 24, 27, 30 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson et al. (US Patent # 4,471,684). Johnson et al. discloses a device for deploying ammunition, wherein a recess in a body shell (reference (references 11 and 12) of a vehicle provided for ammunition deployment is covered by a cover arrangement (reference 19) that reduces a radar signature caused by the recess and wherein the cover arrangement is opened by the ammunition upon deployment. The ammunition is deployed with a launcher located inside of the body shell of the vehicle. The launcher has at least one discharge tube (reference 18). The discharge tube is arranged inside of the body shell so that loading of the discharge tube is possible from the inside. The discharge tube is accommodated in a launcher housing. The launcher housing is fixedly connected with the inside of the body shell. The launcher housing includes at least one closable hatch in an interior space of the vehicle through which loading of the discharge tube takes place (column 7, lines 30-45). The hatch closes through pushing it shut (i.e. a mechanical squeezing action). A gas-tight seal is provided between a loading hatch and a loading opening of the launcher housing. The launcher housing is provided with a blow-off valve. The launcher housing is provided with outlet means. The launcher housing is provided with a connection facility, including electrical ignition means. The launcher housing includes

grounding means (any piece of metal constitutes “grounding means”). The cover is splash-proof which is removed by a first discharge of the ammunition and is retained by a snap-in device. The cover arrangement includes at least one elastic material that is a rubber material (the drawings show that seal (30) is a rubber material).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 19 and 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wohlfarth as applied to claim 1 above, and further in view of Hellwig (US Patent # 5,348,789). Wohlfarth discloses a vehicle for ammunition deployment having a cover arrangement. Wohlfarth does not explicitly teach the cover arrangement comprising a radar camouflage coating, the cover arrangement including at least one elastic material provided with a radar-scattering coating made of metal. Hellwig teaches a camouflage covering for military vehicles wherein the camouflage coating includes an elastic material (i.e. polymer) provided with a radar-scattering coating made of metal. All of the component parts are known in the two references. The only difference is the combination of the “old elements” into a single device by covering the specific cover arrangement of Wohlfarth with the specific camouflage coating taught by Hellwig. It would have been obvious to one having ordinary skill in the art to utilize the camouflage coating taught by Hellwig onto the cover arrangement of a military vehicle as shown by Wohlfarth, since the operation of the camouflage coating is in no way dependent on the

operation of the other equipment of the vehicle and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

11. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wohlfarth as applied to claims 1 and 27 above, and further in view of Schneeberger et al. (US Patent # 4,884,076). Wohlfarth discloses a vehicle for ammunition deployment having a cover arrangement. Wohlfarth does not explicitly teach the cover arrangement is of a radar-reflecting type. Schneeberger et al. teaches a camouflage coating that can be used for military vehicles wherein the camouflage coating reflects radar. All of the component parts are known in the two references. The only difference is the combination of the "old elements" into a single device by covering the specific cover arrangement of Wohlfarth with the specific camouflage coating taught by Schneeberger et al. It would have been obvious to one having ordinary skill in the art to utilize the camouflage coating taught by Schneeberger et al. onto the cover arrangement of a military vehicle as shown by Wohlfarth, since the operation of the camouflage coating is in no way dependent on the operation of the other equipment of the vehicle and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

12. Claims 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wohlfarth as applied to claims 1-3 and 5 above. Wohlfarth discloses the claimed invention except for the launcher located the specific distance of 0.5-15 cm or 1-5 cm. It would have been obvious to one of ordinary skill in the art at the time the invention was made to position the launcher at the specific distance, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only



routine skill in the art and since the launcher would have to be located at some position it would have been obvious for one skilled in the art to attempt to locate the optimum distance.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle (Shelley) Clement whose telephone number is 571.272.6884. The examiner can normally be reached on Monday thru Thursday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571.272.6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michelle (Shelley) Clement/  
Primary Examiner, Art Unit 3641